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ARIZONA ATTORNEY GENERAL

February 13, 1985

Ms. Patricia Plack  
Arizona State Board for  
Private Postsecondary Education  
1812 West Monroe, Suite 214  
Phoenix, Arizona 85007

Re: I85-024 (R85-002)

Dear Ms. Plack:

You have asked whether the Arizona State Board of Private Postsecondary Education (Board) has the jurisdiction to regulate private postsecondary schools operating on military installations. We conclude that the Board may regulate such schools so long as the United States has not accepted exclusive jurisdiction over the military installation.

Arizona has consented to the acquisition of lands within the territorial boundaries of the state for military installations. A.R.S. § 26-251.<sup>1</sup>/ Arizona has also ceded

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1. "The consent of the state may be given pursuant to § 37-620.02 in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States to the acquisition by the United States by purchase, lease, condemnation or otherwise of any land in the state required for the erection of forts, magazines, arsenals, dockyards and other needful buildings, or for any other military installations of the government of the United States.

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exclusive jurisdiction over military reservations to the United States. A.R.S. § 26-252.<sup>2</sup>/ However, before the United States can exercise exclusive jurisdiction over a military installation, the United States must accept such jurisdiction. The method for accepting exclusive jurisdiction is prescribed by federal statute. 40 U.S.C. § 255 provides in relevant part:

Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.

In the absence of acceptance of exclusive jurisdiction, the United States possession of lands is that of an ordinary proprietor. Paul v. United States, 371 U.S. 245, 264 (1963).

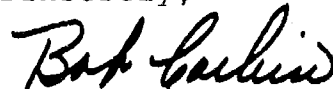
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2. Exclusive jurisdiction over any land in the state acquired for any of the purposes set forth in § 26-251, and over any public domain in the state reserved or used for military purposes is ceded to the United States, but such jurisdiction shall continue no longer than the United States owns or leases the land or continues to reserve or use such public domain for military purposes.

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In conclusion, the Board has the jurisdiction to regulate private postsecondary schools operating on military installations or portions of military installations as to which exclusive jurisdiction has not been accepted by the filing of a notice with the Governor.<sup>3/</sup>

Sincerely,



BOB CORBIN  
Attorney General

BC:TLM:lsp

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3. For example, it is our understanding that the Secretary of the Army has accepted exclusive jurisdiction over virtually all of Fort Huachuca.